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Recognizing and Addressing Sexual Harassment at Work: A Legal Overview

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PUBLISHED 26 December 2024

The **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** was enacted to provide protection against sexual harassment of women at the workplace and to ensure redressal of complaints. The Act stems from the recognition that sexual harassment is a violation of fundamental rights guaranteed under the Constitution of India, including the right to equality (Articles 14 and 15), the right to life with dignity (Article 21), and the right to a safe working environment.

The legislation was formulated in response to the Supreme Court's landmark **Vishaka judgment** and aims to fulfil India's commitment to international conventions like the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**.

Key Definitions Under the Act

1. Aggrieved Woman:

- A woman of any age, employed or not, who alleges to have faced sexual harassment at a workplace.
- Includes women employed in domestic spaces such as dwelling houses.

2. Employer:

- Includes the head of any department, organization, or institution in the public sector.
- In the private sector, it refers to the person responsible for management, supervision, and control of the workplace.
- For domestic workers, the employer is the individual or household employing them.

3. Employee:

- Encompasses individuals working on a regular, temporary, ad hoc, or daily wage basis, directly or through contractors.
- Includes volunteers, trainees, apprentices, or anyone working without remuneration under implied or express terms of employment.

4. Workplace:

- Covers a broad range of settings, including offices, government and private establishments, hospitals, sports complexes, transportation provided by employers, and even dwelling houses for domestic workers.

What Constitutes Sexual Harassment?

Under the Act, **sexual harassment** includes one or more of the following unwelcome acts or behaviors:

- Physical contact and advances.
- A demand or request for sexual favours.
- Making sexually coloured remarks.
- Showing pornography.
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

Additionally, the Act considers certain circumstances as indicative of sexual harassment, such as:

- Explicit or implied promises of preferential treatment in employment.
- Threats of adverse consequences in employment.
- Creating an intimidating, hostile, or offensive work environment.
- Humiliating treatment likely to affect a woman's health or safety.

Recourse Available to Women Facing Sexual Harassment

1. Filing a Complaint:

- An aggrieved woman can file a written complaint to the **Internal Complaints Committee (IC)** if her workplace has one or to the **Local Complaints Committee (LC)** if the workplace lacks an IC (e.g., fewer than 10 employees).
- The complaint should be filed within **three months** of the incident. This period may be extended by an additional **three months** if circumstances prevent timely filing.

2. Conciliation:

- Before initiating an inquiry, the woman can opt for **conciliation** to resolve the matter amicably. However, monetary settlements cannot be a part of conciliation.

3. Inquiry Process:

- If conciliation fails, the IC or LC will conduct an inquiry into the complaint.
- The inquiry must be completed within **90 days**, and a report must be submitted within **10 days** after completion.

4. Interim Relief:

During the inquiry, the aggrieved woman can request measures such as:

- Transfer to another workplace.
- Grant of leave for up to three months.
- Any other relief deemed appropriate.

5. Assistance for Criminal Proceedings:

- If the sexual harassment amounts to an offense under the **Indian law**, the IC or LC must assist the woman in filing a police complaint if she so chooses.

6. Confidentiality:

- The Act mandates confidentiality regarding the identity of the complainant, respondent, and witnesses and the proceedings of the inquiry.

Conclusion

The **Sexual Harassment of Women at Workplace Act, 2013** is a comprehensive law aimed at ensuring women's safety and dignity in professional and domestic work environments. It provides strong mechanisms for prevention, prohibition, and redressal of sexual harassment while emphasizing the need for awareness and sensitivity. By understanding its provisions and processes, workplaces can encourage a culture of respect and equality.

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